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Human rights situations that require the Council's attention

Written statement* submitted by the International Human Rights Association of American Minorities (IHRAAM), a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Losing Sight in Indian Administered Kashmir

The International Legal Framework for Use of Force in Law Enforcement

The Basic Principles of the Use of Force and Firearms (BPUFF) reflect the basic standard that law enforcement officials should in carrying out their duty, as far as possible, apply non-violent means before resorting to the use of force and firearms. They define a set of parameters within which law enforcement officials may use force and firearms when carrying out their functions, and prohibit the use of force that does not comply with these parameters and which therefore is unlawful, arbitrary or excessive.

Principle 1 of the Basic Principles requires governments and law enforcement agencies to *"adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement of officials."* To prevent abuse, domestic law needs to define when law enforcement officials may use force and for what purpose. In order to safeguard against arbitrary interpretation and abuse, the provisions must be clear and unambiguous, so that they are foreseeable both to those applying them and to those that will be affected by their application, i.e. both to law enforcement of officials and the public.

Principle 5 of the Basic Principles provides:
"Whenever the lawful use of force and rearms is unavoidable, law enforcement officials shall exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved".

In order to give meaning to the principles of necessity and proportionality, law enforcement officials should be able to choose from a range of instruments and techniques to use force in order to opt for the least intrusive and most proportional one in the circumstances to achieve the legitimate policing objective.

Indiscriminate Use of Pellet Firing Shotguns

The use of firearms is always potentially lethal. The Governments of India and Jammu and Kashmir, to everyone's surprise, have used metal pellet-firing shotguns against Kashmiri people in the Kashmir valley since at least 2010. The shotguns fire a large number of small pellets spreading over a wide range. There is no way to control the trajectory or direction of the pellets, whose effects are therefore indiscriminate. By their very nature, the weapons have a high risk of causing serious and permanent injuries to the persons targeted as well as to others. These risks are virtually impossible to control.

Pellet-firing shotguns, are blinding, killing and traumatizing hundreds of people in Kashmir. People injured by pellet-firing shotguns have faced serious physical and mental health issues, including symptoms of psychological trauma. School and university students who were hit in the eyes continue to have learning difficulties. Several victims who were the primary breadwinners for their families fear they will not be able to work any longer. Many have not regained their eyesight despite repeated surgeries.

In his Independence Day speech, Prime Minister Narendra Modi said that change in Kashmir will not come from guns or abuses – *"na goli, na gali."* If the Indian Government truly means this, they must end the use of pellet-firing shotguns, which have caused immense suffering in Kashmir. Pellet shotguns and the manner in which they have been used in Kashmir violate international standards on the use of force, which state that law enforcement officials may use force *"only when strictly necessary and to the extent required for the performance of their duty."*

The Central Government in New Delhi and Government of Jammu and Kashmir must immediately stop the use of pellet-firing shotguns and ensure that the use of all other weapons is in line with international human rights standards on use of force. Authorities should also provide full reparation in line with international standards to those injured by pellet-firing shotguns and to the families of those killed.

The UN Human Rights Council and the High Commission for Human Rights should ensure that these pellets are not fired on Kashmiri civilians.